

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SUSAN TEEMAN, Individually, and as a)	
Shareholder on Behalf of Teeman Perley Gilmartin,)		CIVIL ACTION NO.
Inc.,)	07 CIV 9676
)	
Plaintiff,)	
)	
v.)	
)	
MARYBETH GILMARTIN and)	
AMY ARCHER)	
)	
Defendants.)	NOVEMBER 8, 2007

**DEFENDANTS' MOTION TO DISMISS AND/OR STAY PROCEEDINGS AND TO
COMPEL ARBITRATION**

The Defendants in the above-referenced matter, MARYBETH GILMARTIN (hereinafter "GILMARTIN"), AMY ARCHER (hereinafter "ARCHER"), and TEEMAN PERLEY GILMARTIN, INC. ("TPG"), pursuant to Section 3 of the Federal Arbitration Act, 9 U.S.C. Section 3, and Rule 12(b) of the Federal Rules of Civil Procedure, respectfully move the Court to dismiss this action or, in the alternative, to stay these proceedings and compel Plaintiff, SUSAN TEEMAN ("TEEMAN"), to arbitrate her claims. In support of this Motion, the Defendants represent as follows:

1. The allegations asserted by the Plaintiff, TEEMAN, are claims that are subject to a mandatory arbitration clause in a Shareholders Agreement with a date of January 1, 2003.
2. On or about September 5, 2007, TEEMAN has already demanded and commenced arbitration proceedings against GILMARTIN and TPG asserting the same factual claims she is now asserting in this action. The arbitration is now pending in front of the American Arbitration Association, Case No. 13 180 Y 1856 07.

3. Subsequent to and in connection with the arbitration proceeding, GILMARTIN and TEEMAN entered into a standstill agreement wherein they agreed, *inter alia*, to mediate their disputes prior to any arbitration hearing.

Plaintiff has submitted herewith a Memorandum of Law in further support of this Motion.

WHEREFORE, for all of the foregoing reasons, the Defendants, MARYBETH GILMARTIN and AMY ARCHER, and TPG, respectfully move the Court to dismiss this action, or, in the alternative, to stay the proceedings in this action and to compel the Plaintiff to proceed with arbitration of these claims in accordance with Plaintiff's prior arbitration demand.¹

THE DEFENDANTS,
MARYBETH GILMARTIN,
AMY ARCHER, AND TEEMAN PERLEY
GILMARTIN., INC.

By /s/ _____
Jonathan P. Whitcomb (jw3245)
DISERIO MARTIN O'CONNOR
& CASTIGLIONI LLP
One Atlantic St.
Stamford, CT 06901
203-358-0800 (phone)
203-348-2321 (fax)
jwhitcomb@dmoc.com (email)

420 Lexington Avenue, Suite 1430
New York, NY 10170

¹ In the event that the Court determines that some or all of the Plaintiff's claims are not subject to mandatory arbitration, Defendants reserve the right to file a responsive pleading to the Complaint, including a motion under F.R.C.P. Rule 12(b)(6) addressed to the merits of Plaintiff's claims, within twenty (20) days of the Court's ruling.

CERTIFICATION

I hereby certify that on November 8, 2007 a copy of the foregoing was filed electronically. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filings as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Judd Burstein, Esq.
Judd Burstein, P.C.
1790 Broadway, Suite 1501
New York, NY 10019

____/s/_____
Jonathan P. Whitcomb